IN THE UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

KIMBERLY HARDMON, an individual	
Plaintiff,	CIVIL ACTION - LAW
V.	
	No
ARSAN L. WOMACK, an individual;	
ELEMENT FINANCIAL CORP., a business	
entity; ELEMENT TRANSPORTATION	
ASSET TRUST, a business entity; PNC	
EQUIPMENT FINANCE, LLC, a business	
entity; GDS EXPRESS, INC., a business	
entity; JOHN DOES 1-10, fictitious	
individuals; and ABC COS. 3-10, fictitious	
business entities,	
D 0 1	
Defendants	

DEFENDANT, GDS EXPRESS, INC.'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant, GDS Express, Inc. ("Removing Defendant"), by and through counsel, gives Notice of Removal of this action from the Superior Court of New Jersey, Middlesex County to the United States District Court District of New Jersey and in support thereof, states as follows:

REMOVAL IS TIMELY UNDER 28 U.S.C. § 1446

- 1. This action was initially commenced by Plaintiff, Kimberly Hardmon, in the Superior Court of New Jersey, Middlesex County, on April 19, 2018; Plaintiff filed her Third Amended Complaint, identifying Moving Defendant on or about November 28, 2018. *See* Plaintiff's Third Amended Complaint, attached as **Exhibit "A."**
- 2. The action arises out of a motor vehicle accident that occurred on July 14, 2016, on the New Jersey Turnpike North, in Elizabeth, Union County, New Jersey. *See* Exhibit "A," ¶1, First Count.

- 3. The Notice of Removal is being filed within 30 days after receipt by Removing Defendant where the complaint was served on December 19, 2018, and is removable in accordance with 28 U.S.C. § 1446(b)(3). See Affidavit of Service, attached as **Exhibit "B."**
- 4. Pursuant to 28 U.S.C. § 1446(b)(d), upon filing of this Notice of Removal, Removing Defendant will file a Notice of Filing of Notice of Removal in the State Court action pending in the Superior Court of New Jersey, Middlesex County, and will provide written notice to Plaintiff. See Notice of Filing of Notice of Removal, attached as **Exhibit "C."**

DIVERSITY OF CITIZENSHIP EXISTS UNDER 28 U.S.C. § 1332

- 5. Plaintiff is a citizen of the State of New Jersey with an address of P-4 Quincy Circle, Dayton, NJ 083310-1339. See Police Report, Attached as Exhibit "D."
- 6. Defendant, GDS Express, Inc. is a corporation organized and existing under the laws of the State of Ohio with a principal place of business at 1270 Hilbish Avenue, Akron, OH 44312.
- 7. Defendant, Element Transportation Asset Trust is a Delaware statutory trust with a principal address at 940 Ridgebrook Road, Sparks, MD 21152.
- 8. Defendant, Element Financial Corp., is a Delaware company with a principal place of business at 181 Bay Street, Suite 2830, Toronto, Ontario M5J 2T3 (Canada).
- 9. Defendant, PNC Equipment Finance, LLC, is a Delaware company with its principal place of business at 300 Fifth Avenue, Pittsburgh, PA 15222.
- 10. Upon information and belief, at all material times, Defendant, Arsan L. Womack was and is a citizen of the Commonwealth of Pennsylvania, residing at 71740 Robinwood Drive, Tobyhanna, PA 18466. *See* Exhibit "D."

- 11. To the best of Moving Defendant's knowledge and belief, Defendant Arsan L. Womack has not been served with a copy of the Summons and Complaint, as service has not been perfected by the filing of an Affidavit of Service with the Superior Court of New Jersey, Middlesex County, prior to the filing of this Notice of Removal; therefore Removal is permissible. See Encompass Ins. Co. v. Stone Mansion Rest. Inc., 902 F.3d 147 (3d Cir. 2018).
- 12. Element Transportation Asset Trust, Element Financial Corp. and PNC Equipment Finance, LLC have been notified of Moving Defendant's intention to remove this case to Federal Court and none of these Defendants object to the removal pursuant to 28 U.S.C. § 1441. See Affidavits on behalf of Defendants, attached hereto as **Exhibit "E."**
 - 13. Therefore, diversity of citizenship exists under 28 U.S.C. § 1332.

AMOUNT IN CONTROVERSY EXCEEDS \$75,000

- 14. Plaintiff's Amended Complaint alleges throughout that she was severely and permanently injured. See Exhibit "A."
- 15. Plaintiff's Amended Complaint specifically alleges that she was "severely and permanently injured, suffered great pain and mental anguish, was and will in the future require medical care and attention due to the permanent nature of the injuries sustained, was and will in the future be compelled to expend large sums of money for said medical care and attention in an attempt to cure herself, and was and will in the future be prevented from engaging in her normal pursuits and daily activities." See Exhibit "A," at ¶4 (Count 1), ¶5 (Count 3), ¶5 (Count 4), ¶5 (Count 5).
- 16. It is patent on the face of the Complaint that the total damages sought exceed \$75,000 and as such, the amount in controversy exceeds the jurisdictional threshold of \$75,000, exclusive of interest and costs, required by 28 U.S.C. § 1332(a).

DIVERSITY JURISDICTION IS SATISFIED

15. Based upon the above, this Court has original subject matter jurisdiction over this

action pursuant to 28 U.S.C. § 1332 in that Plaintiff's Complaint presents a case where the

amount in controversy is alleged to exceed \$75,000 and the controversy exists between citizens

of different states.

16. Removing Defendant will promptly file a copy of this Notice with the Clerk of the

Superior Court of New Jersey, Middlesex County in the State Court Action as required by 28

U.S.C. § 1446(d) and provide written notice to Plaintiff.

17. Venue is proper in that the events or omissions giving rise to the claim occurred

in Middlesex County, New Jersey, which is situated in this Judicial District. See 28 U.S.C. §

1391(b)(2).

18. In filing this Notice of Removal, Removing Defendant does not waive any

defenses that may be available to them.

19. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of

Civil Procedure.

Respectfully submitted,

SALMON RICCHEZZA SINGER & TURCHI LLP

By:

Zachary J. Ballard, Esquire

David J. Jones, Esquire

123 Egg Harbor Road, Suite 406

Sewell, NJ 08080

zballard@srstlaw.com

djones@srstlaw.com

(856) 354-8074 – Phone

(856) 354-8075 – Fax

Attorneys for Defendant,

GDS Express, Inc.

Dated: January 15, 2019

CERTIFICATE OF SERVICE

I, David J. Jones, Esquire, Attorney for Defendant, GDS Express, Inc. hereby certifies that I served a true copy of the foregoing Notice of Removal on the foregoing counsel by U.S. Mail, postage pre-paid:

Sean M. Mahoney, Esquire Stathis & Leonardis, L.L.C. 32 South Main Street Edison, New Jersey 08837 Attorney for Plaintiff, Kimberly Hardmon

Andrew J. Bayne, Esquire
The Bayne Law Group LLC
116 Village Boulevard, Suite 235
Princeton, NJ 08543-3036
Attorney for Defendants, Element Transportation Asset Trust
and Element Financial Corp.

Thomas P. Stevens, Esquire
FLAMM WALTON HEIMBACH
794 Penllyn Pike, Suite 100
Blue Bell, PA 19422
Attorney for Defendant, PNC Equipment Finance, LLC

Arsan L. Womack 71740 Robinwood Drive Tobyhanna, PA 18466 *Unrepresented Party*

SALMON RICCHEZZA SINGER & TURCHI LLP

By:

Zachary J. Ballard, Esquire
David J. Jones, Esquire
123 Egg Harbor Road, Suite 406
Sewell, NJ 08080
zballard@srstlaw.com
djones@srstlaw.com
(856) 354-8074 – Phone
(856) 354-8075 – Fax
Attorneys for Defendant,
GDS Express, Inc.

Dated: January 15, 2019

Exhibit "A"

Stathis & Leonardis, L.L.C.

32 South Main Street Edison, New Jersey 08837 (732) 494-0600 File No:16-3830SMM Attorney for Plaintiff Sean M. Mahoney Bar ID #15581-2015

KIMBERLY HARDMON, an individual, : SUPERIOR COURT OF NEW JERSEY

LAW DIVISION - MIDDLESEX COUNTY

: **DOCKET NO**: MID L 2275-18

Plaintiff.

v.

Civil Action

Third Amended Complaint & Jury Demand

ARSAN L. WOMACK, an individual; ELEMENT FINANCIAL CORP., a business entity; **ELEMENT TRANS**-PORTATION ASSET TRUST, a business entity; PNC EQUIPMENT FINANCE, LLC, a business entity; GDS EXPRESS, INC., a business entity; JOHN DOES 1-10, : fictitious individuals; and ABC COS. 3-10, : fictitious business entities,

Defendants.

Plaintiff, Kimberly Hardmon by way of Third Amended Complaint in this matter, says:

FIRST COUNT

- On or about July 14, 2016, the Plaintiff, Kimberly Hardmon was the owner of 1. a motor vehicle being operated by her on the New Jersey Turnpike North in the City of Elizabeth, County of Union, and State of New Jersey.
- At the time and place aforesaid, the Defendant, Arsan L. Womack, as servant, 2. agent and/or employee of Defendant, Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc., was the operator of

a certain tractor trailer owned by Defendant, Element Financial Corp. and/or Element
Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc.,
also traveling on the New Jersey Turnpike North in the City of Elizabeth, County of Union, and
State of New Jersey.

- 3. At the time and place aforesaid, Defendant, Arsan L. Womack, individually and/or as servant, agent and/or employee of Defendant Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. did own, operate, control and/or maintain their motor vehicle in a careless, reckless, negligent and unreasonable manner, vehicle, so as to execute an illegal u turn across the highway in front of Plaintiff's vehicle, causing a collision with Plaintiff's vehicle.
- 4. As a direct and proximate result of the aforesaid carelessness and negligence of the Defendants, Arsan L. Womack and Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc., and the ensuing collision, the Plaintiff, Kimberly Hardmon was severely and permanently injured, suffered great pain and mental anguish, was and will in the future require medical care and attention due to the permanent nature of the injuries sustained, was and will in the future be compelled to expend large sums of money for said medical care and attention in an attempt to cure herself, and was and will in the future be prevented from engaging in her normal pursuits and daily activities.

WHEREFORE, Plaintiff, Kimberly Hardmon, demands judgment against the Defendants, Arsan L. Womack, Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. jointly and severally, for:

- a. Compensatory damages;
- b. Reasonable attorneys fees:
- c. Interest and costs of suit; and,
- d. For such other relief as the Court may deem appropriate.

SECOND COUNT

- 1. Plaintiff, Kimberly Hardmon repeats and reiterates each of the allegations of the foregoing Count, as though fully set forth at length herein.
- The Defendant, Arsan L. Womack subsequent to the subject motor vehicle accident, was arrested and charged with resisting arrest and driving under the influence of unknown drugs.
- 3. The conduct of the defendant, Arsan L. Womack as aforesaid was malicious, willful, wanton, reckless and in deliberate violation of the Plaintiff's civil and constitutional rights. In addition, defendant Womack's conduct, along with his actions and behavior were performed knowingly, intentionally, and maliciously, and were grossly negligent and defendant acted with a reckless disregard for the safety of others including the Plaintiff, Kimberly Hardmon and with a reasonable expectation that the conduct would result in damage or injuries sustained by individuals, including Plaintiff, Kimberly Hardmon.
- 4. As a direct and proximate result of the conduct of the Defendant, Arsan L. Womack as aforesaid, the Plaintiff, Kimberly Hardmon was injured.

WHEREFORE, Plaintiff, Kimberly Hardmon demands judgment against the Defendant, Arsan L. Womack, individually, for:

- a. Compensatory damages;
- b. Punitive damages;
- c. Reasonable attorney's fees;
- d. Interest and costs of suit; and
- e. For such other relief as the Court deems just and equitable.

THIRD COUNT

1. Plaintiff, Kimberly Hardmon repeats and reiterates each of the allegations of the foregoing counts as though fully set forth at length herein.

- 2. Defendant, Element Financial Corp. and/or Element Transportation

 Asset Trust and/or PNC Equipment Finance, Inc. and/or GDS Express, Inc. did not exercise reasonable care in hiring Defendant, Arsan L. Womack in that they failed to conduct the proper motor vehicle and/or criminal history checks and/or reference checks to determine whether Defendant, Womack had any prior criminal convictions for drugs, which would have been apparent if Defendant, Element Financial Corp. and/or Element Transportation

 Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. had exercised reasonable care in screening said employee.
- 3. Defendant, Element Financial Corp. and/or Element Transportation
 Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. allowed Defendant,
 Womack to operate its vehicle and placed Defendant, Womack in a position where others could
 be injured, including Plaintiff, Kimberly Hardmon.
- 4. Defendant, Element Financial Corp. and/or Element Transportation

 Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc.'s failure to conduct the proper background and/or reference checks was careless, reckless and negligent, and also rises to the level of gross negligence.
- 5. As a result of Defendant, Element Financial Corp. and/or Element
 Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc was
 careless, reckless, and negligent failure to exercise reasonable care, Plaintiff, Kimberly
 Hardmon was severely and permanently injured, suffered great pain and mental anguish, was
 and will in the future require medical care and attention due to the permanent nature of the
 injuries sustained, was and will in the future be compelled to expend large sums of money for
 said medical care and attention in an attempt to cure herself, and was and will in the future be
 prevented from engaging in her normal pursuits and daily activities.

WHEREFORE, Plaintiff, Kimberly Hardmon demands judgment against the Defendant,

Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. for:

- a. Compensatory damages;
- b. Attorney's fees;
- c. Interest and costs of suit; and,
- d. For such other relief as the Court may deem appropriate.

FOURTH COUNT

- 1. Plaintiff repeats and reiterates each of the allegations of the foregoing counts, as though fully set forth at length herein.
- 2. Defendant, Element Financial Corp. and/or Element Transportation

 Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. further had an obligation to properly train, supervise, manage and oversee all agents, servants and employees, including Defendant, Womack in the scope of their employment, including, but not limited to, the operation of their commercial tractor trailer vehicles.
- 2. Defendant, Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. further had an obligation to implement the proper policies and procedures on the proper operation of their commercial vehicles by its employees and to make sure these policies and procedures were followed and complied with and that only properly trained, properly supervised and properly licensed employees operate said commercial tractor trailer vehicles.
- 4. Defendant, Quality Companies LLC did operate said business in a negligent and unreasonable manner in allowing Defendant, Womack to operate its, commercial vehicle without having received the proper training, supervision, instruction and management, thus negligently exposing individuals, including Plaintiff, Kimberly Hardmon to an unreasonable risk of injury and harm on the roadways.
 - 5. As a direct and proximate result of the aforesaid negligence, carelessness,

and omissions of Defendant, Element Financial Corp. and/or Element Transportation

Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. Plaintiff, Kimberly

Hardmon was severely and permanently injured, suffered great pain and mental anguish, was

and will in the future require medical care and attention due to the permanent nature of the
injuries sustained, was and will in the future be compelled to expend large sums of money for
said medical care and attention in an attempt to cure herself, and was and will in the future be
prevented from engaging in her normal pursuits and daily activities.

WHEREFORE, Plaintiff, Kimberly Hardmon demands judgment against the Defendant, Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. for:

- a. Compensatory damages;
- b. Attorney's fees;
- c. Interest and costs of suit; and,
- d. For such other relief as the Court may deem appropriate.

FIFTH COUNT

- 1. Plaintiff repeats and reiterates each of the allegations contained in the foregoing counts, as though fully set forth at length herein.
- 3. Defendant, Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. 's actions in failing to implement reasonable policies and procedures and in failing to properly train supervise and/or manage Defendant, Womack, and in failing to conduct the proper criminal background checks, reference checks, as well as driving history which would have shown that said Defendant, Womack had prior criminal convictions, possibly resulting in incarceration for drug possession and use, which would have been apparent if Defendants aforesaid had exercised reasonable care in screening said employee.
 - 3. Defendant, Element Financial Corp. and/or Element Transportation

Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. allowed Defendant, Womack to operate its vehicle and placed Defendant, Womack in a position where others could be injured, including Plaintiff, Kimberly Hardmon.

- 4. Defendant, Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc.'s actions and/or inactions aforesaid were malicious, willful, wanton, reckless and in deliberate violation of the Plaintiff's civil and constitutional rights and Defendants acted with a reckless disregard for the safety of others including the Plaintiff, Kimberly Hardmon and with a reasonable expectation that Defendant, Womack's conduct would result in damage or injuries sustained by individuals, including Plaintiff, Kimberly Hardmon.
- 5. As a direct and proximate result of the aforesaid conduct of Defendant,
 Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment
 Finance, LLC and/or GDS Express, Inc., Plaintiff, Kimberly Hardmon was severely and
 permanently injured, suffered great pain and mental anguish, was and will in the future require
 medical care and attention due to the permanent nature of the injuries sustained, was and will in
 the future be compelled to expend large sums of money for said medical care and attention in an
 attempt to cure herself, and was and will in the future be prevented from engaging in her normal
 pursuits and daily activities.

WHEREFORE, Plaintiff, Kimberly Hardmon demands judgment against the Defendant, Element Financial Corp. and/or Element Transportation Asset Trust and/or PNC Equipment Finance, LLC and/or GDS Express, Inc. for:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees;
- d. Interest and costs of suit; and,
- e. For such other relief as the Court may deem appropriate

SIXTH COUNT

- 1. Plaintiff, Kimberly Hardmon repeats and reiterates each of the allegations of the foregoing Counts, as though fully set forth at length herein.
- 2. Defendants John Does 1-10 and ABC Cos. 2-10, represent fictitiously named individuals and/or business entities who owned, operated, controlled, repaired and/or maintained, any vehicle, or who may have contributed to the training of the defendant, Arsan L. Womack in the use and operation of tractor trailers, and who may have contributed o or provided Defendant, Womack with illegal substances leading to his driving while under the influence of unknown drugs as charged, or who may have caused the accident or contributed to the happening of the accident herein not identified herein.
- 3. To date, the names of these individuals and/or business entities are unknown to Plaintiff. Plaintiff reserves her right to amend the within Complaint to incorporate the name of such individuals and/or entities in the event their names are identified and/or liability of same are identified during the normal course of discovery.

WHEREFORE, Plaintiff, Kimberly Hardmon does hereby demand judgment against the Defendants, John Does 1-10 and/or ABC Cos 2-10, for

- a. Compensatory damages;
- b. Attorney's fees;
- c. Interest and costs of suit; and,
- d. For such other relief as the Court may deem appropriate.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues so triable.

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4: 25-4, Sean M. Mahoney, Esq. is hereby designated as trial counsel.

DEMAND FOR ANSWERS TO UNIFORM AND SUPPLEMENTAL INTERROGATORIES

Pursuant to Rule 4:17-1, Plaintiff hereby demands Answers to Uniform Interrogatories Form C, C(1) and the Supplemental Interrogatories included herein, within sixty (60) days of the filing of defendants' Answer to this Complaint.

DEMAND FOR NOTICE TO PRODUCE

Pursuant to Rule 4:18-1, Plaintiff hereby demands documents in response to the Notice to Produce included herein within fifty (50) days of the filing of defendants' Answer to this Complaint.

STATHIS & LEONARDIS LLC
Attorneys for Plaintiff

By:
SEAN M. MAHONEY

DATED: (1/26/18

CERTIFICATION

It is hereby certified that to the best, present knowledge of Counsel for Plaintiff, that the matter in controversy which is the subject of this litigation involving the named parties hereto, is not the subject matter of controversy in any other pending litigation or arbitration proceeding, and to the best of my knowledge and belief, no other action or arbitration proceeding is contemplated.

To the best of my knowledge, information and belief, there are no other parties to be joined in this action, and I recognize my continuing obligation to file and serve on all parties and the Court an amended certification if there is a change in the facts herein.

I further certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

I further certify that this Third Amended Complaint is filed by leave of Court.

I further certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DATED: 11/26/18

SEAN M. MAHONEY

Exhibit "B"

	HARDMON, AN INDIVIDUAL vs. OMACK, AN INDIVIDUAL, ET	Plaintiff Defendant	Superior Court of Nev Law Division Middlesex County Docket Number: MID-	•			
Person to be GDS EXPRE 1270 HILBISI AKRON, OH	H AVE.		AFFIDAVIT OF S	•			
Attorney: SEAN MAHO	DNEY, ESQ.		Cost of Service pursu	eant to R. 4:4-3(c)			
Uniform And DeftWoman	Papers Served: Summons, Third Amended Complaint, Jury Demand, Designation Of Trial Counsel, Demand For Answers To Uniform And Supplemental Interrogatories, Demand For Notice To Produce, Certification, Supplemental Interrogatories To Deft Womack, Notice To Produce To Deft Womack, Supplemental Interrogatories To Defendant Companies, Notice to Produce Defendant Companies						
Service Data	a:						
Served Succ	essfully X Not Served	Date: 12/19/2018 Tin	ne: 10:30 am	Attempts:			
	Delivered a copy to him / her per	_	Name of Person Served and	I relationship / title:			
	Left a copy with a competent hou member over 14 years of age res therein		MARK WHITACRE AGENT/MANAGING AGEN	T			
X	Left a copy with a person authorizaccept service, e.g. managing agregistered agent, etc.						
Description	of Person Accepting Service:						
Sex: M	Age: 45 Height: 5'9" Weight	ght: 170 Skin Color: WHITE	H	fair Color: SALT & PEPPER			
Comments or Remarks:							
			±0 8€0				

Server Data:

Subscribed and Sworn to before me on 12/20 2018 by the afflant who is personally known to me.

NOTARY PUBLIC

JAMES R LEWIS (

MOTARY PUBLIC STATE OF OHIO

My Commission Expires March 00, 2019 I, BEN PURSER, was at the time of service a competent adult not having a direct interest in the litigation. I declare under penalty of perjury that the foregoing is true and correct.

Signature of Process Server

12-20-19 Date

STATUS, L.L.C. 1509 Stuyvesant Avenue Union, NJ 07083 (908) 688-1414

Our Job Serial Number: STS-2018053935

Ref: 16-3830SMM

Exhibit "C"

SALMON, RICCHEZZA, SINGER & TURCHI LLP

By: Zachary J. Ballard, Esq. Attorney ID# 14472007

David J. Jones, Esq. Attorney ID# 151832015

123 Egg Harbor Road, Suite 406

Sewell, New Jersey, NJ 08080

(856) 354-8074

Attorneys for Defendant, GDS Express, Inc.

KIMBERLY HARDMON, an individual

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – MIDDLESEX COUNTY

Plaintiff,

v.

DOCKET NO.: MID-L-2275-18

ARSAN L. WOMACK, an individual; ELEMENT FINANCIAL CORP., a business entity; ELEMENT : TRANSPORTATION ASSET TRUST, a business entity; PNC EQUIPMENT : FINANCE, LLC, a business entity; GDS : EXPRESS, INC., a business entity; JOHN : DOES 1-10, fictitious individuals; and ABC COS. 3-10, fictitious business entities,

NOTICE OF REMOVAL

Defendants

To the Clerk of the Court:

Pursuant to 28 U.S.C. §1446(D), Defendant, GDS Express, Inc., file herewith a copy of the Notice of Removal which was filed in the United States District Court for the District of New Jersey. See attached, Exhibit "A."

SALMON RICCHEZZA/SINGER & TURCHI LLP

By:

Zachary J. Ballard, Esquire David J. Jones, Esquire

Dated: January 15, 2019

SALMON, RICCHEZZA, SINGER & TURCHI LLP

By: Zachary J. Ballard, Esq. Attorney ID# 14472007

David J. Jones, Esq. Attorney ID# 151832015

123 Egg Harbor Road, Suite 406

Sewell, New Jersey, NJ 08080

(856) 354-8074

Attorneys for Defendant, GDS Express, Inc.

KIMBERLY HARDMON, an individual

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION – MIDDLESEX COUNTY

Plaintiff,

٧.

DOCKET NO.: MID-L-2275-18

ARSAN L. WOMACK, an individual; ELEMENT FINANCIAL CORP., a

business entity; ELEMENT:
TRANSPORTATION ASSET TRUST, a:
business entity; PNC EQUIPMENT:
FINANCE, LLC, a business entity; GDS:
EXPRESS, INC., a business entity; JOHN:

DOES 1-10, fictitious individuals; and ABC COS. 3-10, fictitious business entities,

NOTICE OF REMOVAL

Defendants

It is hereby certified that a true and correct copy of the within captioned Notice of Removal Pursuant to 28 U.S.C. §1446(D) was served via First Class Mail on the below counsel:

Sean M. Mahoney, Esquire Stathis & Leonardis, L.L.C. 32 South Main Street Edison, New Jersey 08837 Attorney for Plaintiff, Kimberly Hardmon

Andrew J. Bayne, Esquire The Bayne Law Group LLC 116 Village Boulevard, Suite 235 Princeton, NJ 08543-3036

Attorney for Defendants, Element Transportation Asset Trust and Element Financial Corp.

Thomas P. Stevens, Esquire
FLAMM WALTON HEIMBACH
794 Penllyn Pike, Suite 100
Blue Bell, PA 19422
Attorney for Defendant, PNC Equipment Finance, LLC

Arsan L. Womack 71740 Robinwood Drive Tobyhanna, PA 18466 *Unrepresented Party*

SALMON RICCHEZZA SINGER & TURCHI LLP

By:

Zachary J. Ballard, Esquire David J. Jones, Esquire

Dated: January 15, 2019

Exhibit "D"

62	Page	1 4 4		[]F#	pl.		New	Jer	sey	Polic	o Cra	sh le	westigati	on Report	Repo	onable [] Non	- Aepartable	Change Re;	700
01	1 Case Non	1016-0	2078.	À.		to Co	sult rod On				4JTF	SMD			15		- 1	3 00	1183
01	Pakin 043 STATE		38		Code 02		E) As too	ersec	in war	Head A			O4:		12 Route No	5-/Es 13	Utrpost In Speed their	1185
01	1 Statoven	icnd				-		Foot Miles		1	3: 8	V of		en .	17 Erpsi	Road Hawa			139A
60 "	NEWARI L Date	L of Creat	[5	Dayor	YYEAR	6	Time	15	13ur	vogally	15 70			10 To: Ramp From	West Sea			Dea Dea	25
100	CT I	dd	71	Su III	To W		2400 b	1	- (Code	I KE	ted	l'aured	21 Lattuda		1	Langitude	111.	1165
61	Acceptant with	14	16	(b) F	\$s		9 1	1	2	0 0 4	- Code		0 3 54 Pr	4 D . 5 2	0 4 6	[-]?		1 9 2 6	ř
D5	VI VEN NO	UNK	MONN		deleter		up territo	-	_		99		ער	38080925				901	120
102	26 Criver's F	Parked Val Name			har	yeist Lant Mar	run	to Em	ergezi	SZ_D	SI A Ru	4× 51	E Linese's Funt	asked []Ped	byttat La	dat [] Hwan to at Norva	Emergency	DHEA RUN	03
103	ARGAN			- 1	L	иона	X.		-		35 E		LANCE		T HO	OWARD		N SO Eyes	01
01	and Street	7140	ROBI	NWOOI	D DR						0	2	nd Street 2 (O COMMAY (COURT	80.0		04	
61	TODYN	ARNA					PA PA		7		466		siny Morgany i	LLE		NJ NJ	07	751-4433	
0.3	ditte	1000	1111	a in the		IIII	IRU			Carried S	iin.			THE REAL PROPERTY.	ALCOHOL:	1717077		A Salar	12
05	2000									1	難	爾		HIERON.	lite bits		NAME A		n-
	Dana ye				.152	ring)		est Nav	14				S Orene & Frat Simo As	142018	*****		reas.a		-
	Driver 30 Sources	DUA	LITY	COMP	VALL	10 Lil	C			_		- 1	Driver 5 Humber						122
fios	and titreet	9697 1	W. 19	19T	øT				-				red Elizant						04
2.0	HOKEHA	2				IL		50	7 p				Col			State	žφ		01
107	SH LLAX.		19 Akode	TT		WHY		12		₩ No. 00251			DODG	B9 Stool RAL		Cotor 71 Yes			
NOS	HAVIN				_	MILL	1 20	-41	8.0	0022	45 Espi	104 1	A VON					15 Espera	1
24	1XI	PBD493				cana fr	Loved		17		03 3			797699589:		na (Tipana	[17	01;19	1
05	HIGHNA				W. P. S. P. S. S.		[]ts	pound secret	ALM	prof	Driver a Profes	1	YAWHOX			Disas Disas	tied Authority	Ownat Drivat C Putca	126
	16 Alichard	C-1 (C-1)			- 1	174.50	-1	7	1	Check			11		1 1	78 AEIZAMENIA	Tost		04
111	12 Gherr No Yes Refused 134 Crash Displays (KGC 10 SCALL) Ghran: No Yes Reduced 127								04										
01	1 Type: Daven @ Blood Onna Karm SEE ATTACHED DIAGRAM																		
115									26										
113	On Spill Placerd No. Placerd No. Placerd No. 2								12th										
114										1204									
115	100 CALLER NO. \$ 072001 Outs.									1264									
(#)	26190		e Vinete		_											01 Campacus	Varida Weign		-
03	1 (10,000 to 120,000 t									3250									
1117	[] ± 20,001 tm 129									128b									
01	57 Carrier n GUALETT	AZNA E CONCENA	TER LLC			1	1	I	i	1	1 1	1	1 1	1 1 1	11	et Camin Haus			120c
1	133 Cresh C							-,-					********						-
	Drive	er #1	did	not	btoa	148	4 60	200 Q 1	12	[844]	DOJU	201	600127D)	*					1203
	Drive	er #2	otat	ad i	n 0/	fect	; It	100	oka	d lik	n th	e t	ruck was	conducti	ng a U	turn and	it cros	bos	
		lanes.											dn't avo						133
																			01
		(c	conti	nued	OB	next	bad	B)											121
	135 Dornag	te One	Property		en n	MACI	2 MT	PD 0	0.1	any s	042 1	toot	ADOLDER.	NJ 07095					01
	Con II					ALC: CI	s Mu.		138	Summor	INc.	0	132 C	wo UMAp	Charpet		112 Sum	nora Illa	133
	141 CV6cm	3914	-50	_	_	_			_	H160	10819		#2 Rays No.	1143 Name	Avá By	Badge No.	144 Case 513	ú f	01
1		AM	PAVLO	YXBO							No.		7330	J	H L	6367	Panding	☐ Comp'sta	
	13		8.5	3.6	BY.	6A	42	90	and the same of	13	93	B4		ABRAN L MONA		Str trisauroid	estraned, Date	a Teles of Dead	
	A V1	01	01	04			02	04	2	04	04		7007	7140 MORTHWOL	CO 178, 1708:	PHANTIA, PA 1	1461		
	B V2	01	01	04			06	0.0	1,	0.9	09	g g	-	250 COMMAT C	DUNT, HOUSE	MYSLES, NJ	97753		
	C V3	01	01	04	F/Li		06	0.0	1	09	04		- 0	514 COLUCA C		2016 LN 7802			
	0	1																	
	-	-	1	-			-	-		-		-	-	1					
	E	1	1					1						I					

34	1 Page 2 of 4 February Palice Crash Investigation Report Reportable I too Asposable Course Rep	part .
01	10 Cross Marcin 100 Cross	118a 25
0.2	TPRICE Perhal Code New Name De 12 Poud No. Sulfa 12 Misquit and Name De 12 Poud No. Sulfa 12 Misquit and 14 Second Lord Lord Lord Lord Lord Lord Lord Lor	1100
01	5-3 MSSofFredret DELP OF OF	÷
03	I Gold Crash 5 Show of White 5 Long II the complete 18 Years 16 Long 18 From: U.S. L.	3194
100	mm od yr 8u M Tu W hos 2100 hts. Cost NSmd Pered 211210 to 20 Rose 20 1 2 1 9 2 6	\$100 *
101	[0 7 1 4 1 6 Th F 60 0 9 1 1 7 0 4 1 - 0 3 4 0 . 6 2 0 6 6 - 7 4 . 2 1 9 2 6 13 Ven No 14 Poscy Ha.	-
92	V3 C10022174 946	120
01	100 Dec at a Fact Maries State Control of the State	01
133	27 Harmon 20 Eyes 57 Na; 15mm (50 Eyes	٠
104	If City Sain In Is City Sain Zo	
03	DAYTON NJ 08810-1339	122
105 DS	prift dd yy pr.n. yy	
-	25 Owner's Post Name Instal Lost Name GS Contr's Feet Leans Instal Link Name GS Contr's Feet Leans	123
	Diver.	124
	76 Number and 84rel ed 5 test	01
104	JECHY SUN TO STORY SAN TO	125
107	33 Kills 39 Ricon 40 Coor 41 Year 42 Plate 215 List 45 Lists 35 Lists 45 Lists 35 Lists 10 Color 71 Year 172 Pulse Ho. 73 Sints 10 Color 71 Year 172 Pulse Ho. 73 Sints	
108	AVVN (15 Eagles) (4 VN) (75 Lipres)	
01	46 Voticis flumment to 1 Down 1 List #1 Searce Di Towns 147 Downs 18 Voticis flumment to 1 Downs 1 List #1 Searce Di Towns 147 Downs 18 Voticis flumment to 1 Downs 1 List #1 Searce Di Towns 147 Downs 18 Voticis flumment to 1 Downs 1 List #1 Searce Di Towns 147 Downs 148 D	
-		120
01	48 Abstractions Test Given: So No O Yee O Rehamo 154 Creat Despure (NOFTO SCALE) Given: No O Yee O Rehamo	127
III	Type: Denot Bood Dune Description SEE ATTACHED DIAGRAM Type: Devert Decod Filter	-
112	Results: 0, 1 Pending Heading Heading 1	178a
115	19 Hazardona Mineral Piece or Pacard On the Pacard On Pa	26
114	Road Sum No. Band Sum No. No.	
	POCEMBRY NO CHROOL CONS.	1300g
115	- 7	1285
1110	51 Commental Validate Weight [3] 10,000 be	1293
01	10,001 - 20,000 bs 110,000 ts 110,000 ts 27,000 ts 27,000 ts 27,000 ts	-
-	52 Carrel harne E2 failul raining	1290
	72 (14) Na.3 Secul.	170c
	Driver #3 stated in effect: I saw a truck heading straight for me. I tried to swerve to the left to avoid being hit.	129J
		ان
1	Investigation revealed: Vehicle #2 and #3 were traveling northbound on the NJTP with Vehicle	135
	#2 being in front of Vebicle #3 in the left lane. Vebicle #1 was traveling northbound on (continued on next page)	01
- 1		01
	N/S CONCRETE BARRIER DANAGE NUTP PO BOX 5042 WOODBRIDGE NU 07055	132
	Doer 31/ Charge Shiftele Charges 125 Servinors No. Oper 116 Crurys Shift pis Charges 142 Symmons No.	123
1	141 Circles 1884 142 Circles 1884 143 Ferrimond III 144 Conc. Sizure 1884 144 Conc. Sizure 188	-
1	TPR. A H PAVLOSKY 7330 JM 6.567 □ Pendée @ Complete 52 A4 65 86 87 66 89 90 91 92 91 95 Herres A Accresses of Complete - Fiberessar, Date & Troy of Ensert	
	A MILE TO THE TOTAL TOTA	
	B TO THE TOTAL PROPERTY OF THE	
	c	
	E I I I I I I I I I I I I I I I I I I I	
	*	

NJTR-1 (INV. 03/2006)

Page 3 of 4

New Jersey Police Crash Investigation Report	Police Dept!	STATE POLICE	Code: D2
Motor Vehicle Crash Description	Startion:	HEWARK	Case No: 0030-2016-02078A

the NJTP in the right lane. Vehicle \$1 attempted to make a D turn in the middle of the highway. Vehicle \$1 then was travaling southbound in the left lane when it struck Vehicle \$2 then Vehicle \$3. Vehicle \$2 was then pushed into the left shoulder concrete barrier. Damage to Vehicle \$1 was major and included the entire front passenger side of the vehicle. Damage to Vehicle \$2 was major and included the antire both sides of the vehicle. Damage to Vehicle \$3 was moderate and included the front end of the vehicle.

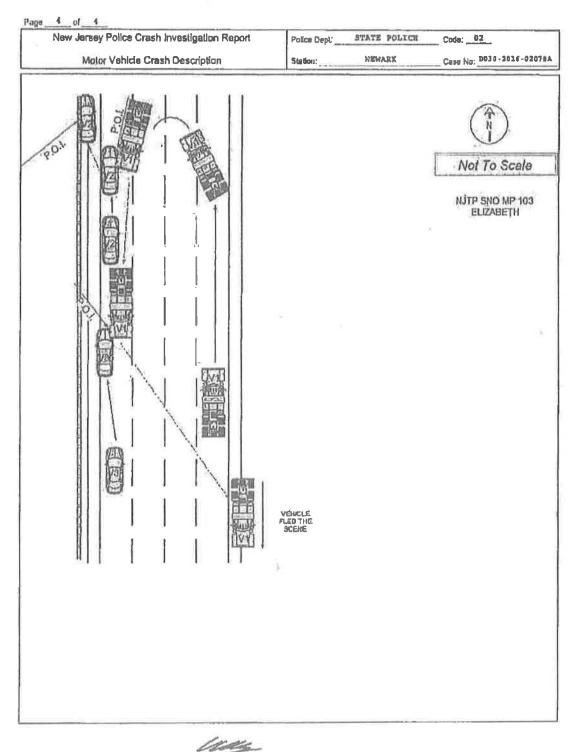
Driver #1 was arrested for Eluding, Resisting Arrest, and Driving While Intoxicated (See DB30201606194/DB30206194/DB30201606194/DB30206194/D

Page #1, Box #25: UNKNOWN INSURANCE

Page #1, Box #120: DRIVER IS BELIEVED TO BE UNDER THE INFLUENCE OF UNKNOWN DRUGS

ARSAN	HOMACK	R16010820	1	39:4-96)	RECKLESS DRIVING
NABRA	WOHACK	B16010821	t	39:4-67 }	OBSTRUCTING PASSAGE OF OTHER VEHICLES OR STREET CARS
arsan	WOHACK	E16010822	1	39:4-85.1)	WRONG MAY ON ONE-WAY STREET
arban	WOMACE	E16010823	ŧ	19:9-1.42 1	TPX-HOVING AGAINST TRAFFIC
ИКВКА	NONACK	B16010824	ţ	3914-8BE 1	TRAFFIC ON MARKED LANSS-TRUCKS
ABSAK	WOMACK	E15010825	ı	39:4-91)	PAILURE TO YIELD RIGHT OF WAY TO EMERGENCY VEHICLES
MARK	нонисх	E16010826	(U-TURN ON CURVE/GRADE OR WHERE VIEW OBSTRUCT U-TURN SON
ARSAN	WOHACK	E16010827	(LEAVING SCENE OF ACCIDENT INVOLVING PERSONAL INJURY)
ARSAN	HOHACK	R16010628	(39(4-130)	PAILURE TO REPORT ACCIDENT





733 D

NJTR-1A (1644, 502/2006) Ottom/o Signaturo Bodge Mumber

Exhibit "E"

IN THE UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

KIMBERLY HARDMON, an individual	
Plaintiff, v. ARSAN L. WOMACK, an individual; ELEMENT FINANCIAL CORP., a business entity; ELEMENT TRANSPORTATION ASSET TRUST, a business entity; PNC EQUIPMENT FINANCE, LLC, a business entity; GDS EXPRESS, INC., a business entity; JOHN DOES 1-10, fictitious	CIVIL ACTION - LAW No.
individuals; and ABC COS. 3-10, fictitious	
business entities,	
Defendants	

CONSENT TO REMOVAL PURSUANT TO 28 U.S.C. § 1441

Pursuant to 28 U.S.C. § 1441, Defendant, PNC Equipment Finance, LLC, does not object to the removal of this proceeding from the Superior Court of New Jersey, Middlesex County to the United States District Court for the District of New Jersey.

Defendant, PNC Equipment Finance, LLC reserves all rights and defenses, none of which are waived.

Respectfully submitted,

FLAMM WALTON HEIMBACH

By: Thomas P. Stevens

Thomas P. Stevens
794 Penllyn Pike, Suite 100
Blue Bell, PA 19422
tstevens@flammlaw.com
Attorney for Defendant,
PNC Equipment Finance, LLC

Dated: January 10, 2019

IN THE UNITED STATES DISTRICT COURT DISTRICT OF NEW JERSEY

KIMBERLY HARDMON, an individual	4)
Plaintiff,	CIVIL ACTION - LAW
V.	No.
ARSAN L. WOMACK, an individual; ELEMENT FINANCIAL CORP., a business entity; ELEMENT TRANSPORTATION ASSET TRUST, a business entity; PNC EQUIPMENT FINANCE, LLC, a business entity; GDS EXPRESS, INC., a business entity; JOHN DOES 1-10, fictitious individuals; and ABC COS. 3-10, fictitious business entities,	
Defendants	

CONSENT TO REMOVAL PURSUANT TO 28 U.S.C. § 1441

Pursuant to 28 U.S.C. § 1441, Defendants, Element Transportation Asset Trust and Element Financial Corp. (hereinafter, the "Element Defendants"), consent to the removal of this proceeding from the Superior Court of New Jersey, Middlesex County to the United States District Court for the District of New Jersey.

The Element Defendants reserve all rights and defenses, none of which are waived.

Respectfully submitted,

THE BAYNE LAW GROUP LLC

By:

Andrew J. Bayne, Esquire

116 Village Boulevard, Suite 235

Princeton, NJ 08543-3036 abayne@baynelaw.com

Attorney for Defendants, Element Transportation

Asset Trust and Element Financial Corp.

Dated: 01/15/19